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7  
8 **UNITED STATES DISTRICT COURT**  
9  
10 **DISTRICT OF NEVADA**

11 BRET AXELROD, an individual,

12 Plaintiff,

13 vs.

14 GEORGE L. KLANDER, an individual, and  
15 MONEY MANAGEMENT ADVISORY, INC., a  
Pennsylvania corporation; DOE INDIVIDUALS i  
through 10; and ROE CORPORATIONS 11  
through 20,

16 Defendants.  
17  
18

19 Case No.: 2:13-cv-1289-JAD-VCF

20  
21 **STIPULATED CONFIDENTIALITY  
22 AGREEMENT AND PROTECTIVE ORDER**

23 In order to protect the confidentiality of confidential information obtained by the parties in  
connection with this case, the parties, by and through their respective counsel of record, hereby agree  
as follows:

24 1.

25 (a) Any party or non-party may designate as "Confidential Information" (by stamping the  
relevant document or other item with the legend "Includes CONFIDENTIAL INFORMATION") any  
26 document or response to discovery which that party or non-party considers in good faith to contain  
information involving trade secrets, confidential business or financial information, or the private  
27 information of third-parties to this action that is subject to protection under the Federal Rules of Civil  
Procedure or Nevada law ("Confidential Information"). Confidential information does not include  
28 information that is publically known or that could be ascertained from an inspection of publically

1 available documents, materials or devices. Where a document or response consists of more than one  
 2 page, the first page and each page on which confidential information appears shall be so designated.  
 3 The parties agree that they will only designate information as Confidential Information if they have a  
 4 reasonable belief that the information should, in fact be so designated. Mass, indiscriminate or  
 5 routinized designations are prohibited.

6       (b) Except as to Confidential Information that has been designated as such on the basis that  
 7 it contains the protected private information of third-parties, Confidential Information shall not include  
 8 any information which: (i) is now, or hereafter becomes, through no act or failure to act on the part of  
 9 any party to this action, or their agents, generally known or available to the public; (ii) was lawfully  
 10 acquired by and furnished to, and in the possession of, a party prior to its designation by the producing  
 11 party as Confidential Information; (iii) is hereafter lawfully acquired by and furnished to a party by a  
 12 third party; or (iv) is information that a party can document/prove was lawfully and independently  
 13 developed by said party.

14       2. A party or non-party may designate information disclosed during a deposition or in  
 15 response to written discovery as Confidential Information by so indicating in said response or on the  
 16 record at the deposition and requesting the preparation of a separate transcript of such material.  
 17 Additionally a party or non-party may designate in writing, within twenty (20) days after receipt of said  
 18 responses or of the deposition transcript for which the designation is proposed, that specific pages of  
 19 the transcript and/or specific responses be treated as Confidential Information . Any other party may  
 20 object to such proposal, in writing or on the record. Upon such objection, the parties shall follow the  
 21 procedures described in paragraph 8 below. After any designation made according to the procedure set  
 22 forth in this paragraph, the designated documents or information shall be treated according to the  
 23 designation until the matter is resolved according to the procedures described in paragraph 8 below,  
 24 and counsel for all parties shall be responsible for marking all previously unmarked copies of the  
 25 designated material in their possession or control with the specified designation.

26       3. Except as provided herein, Confidential Information designated as provided herein shall  
 27 be used solely for the purposes of this action, shall not be disclosed to anyone other than those persons  
 28 identified herein in paragraph 4, below, and shall be handled according to the terms of this protective  
 order until such designation is removed by the designating party or by order of the Court. Nothing in  
 this protective order shall preclude a party from using its own Confidential Information.

1           4. Except with the prior written consent of other parties, or upon prior order of this Court  
2 obtained upon notice to opposing counsel, Confidential Information shall not be disclosed to any  
3 person other than:

- 4           a. counsel for the respective parties to this litigation, including in-house counsel  
5 and co-counsel retained for this litigation;  
6           b. employees of such counsel;  
7           c. the plaintiff;  
8           d. individual defendants, class representatives, any officer or employee of a party,  
9 to the extent deemed necessary by Counsel for the prosecution or defense of this  
10 litigation;  
11          e. consultants or expert witnesses retained for the prosecution or defense of this  
12 litigation, provided that each such person shall execute a copy of the  
13 Certification ("Certification") annexed to this Order as Appendix A (which shall  
14 be retained by  
15           counsel to the party so disclosing the Confidential Information and made  
16 available for inspection by opposing counsel during the pendency or after the  
17 termination of the action only upon good cause shown and upon order of the  
18 Court);  
19          f. any authors or recipients of the Confidential Information;  
20          g. the Court, Court personnel, and court reporters; and  
21          h. witnesses (other than persons described in paragraph 4(f)). A witness shall sign  
22 the Certification before being shown a confidential document. Confidential  
23 Information may be disclosed to a witness who will not sign the Certification  
24 only in a deposition at which the party who designated the Confidential  
25 Information is represented or has been given notice that Confidential  
26 Information shall be designated "Confidential" pursuant to paragraph 2 above.  
27 Witnesses shown Confidential Information shall not be allowed to retain copies.

28        5. Any persons receiving Confidential Information shall not reveal or discuss such  
information to or with any person who is not entitled to receive such information, except as set forth  
herein.

1       6. In the event that any Confidential Information is used: (a) in any pretrial proceeding,  
 2 including any hearings, in the action, or (b) included with, or the contents thereof are in any way  
 3 disclosed in, any pleading, motion, exhibit, deposition transcript, or other paper filed in any court  
 4 proceeding in the action, it shall not lose its confidential status through such use, and the party using  
 5 such Confidential Information shall take all reasonable steps consistent with Local Rule 10-5, this  
 6 protective order, and all other applicable rules, to maintain its confidentiality during such use. All  
 7 portions of briefs, pleadings, deposition transcripts, exhibits, correspondence, or other filings in the  
 8 action, which incorporate or disclose Confidential Information, shall be filed under seal pursuant to  
 9 applicable law, including, but not limited to, Local Rule 10-5. Unless otherwise permitted by statute,  
 10 rule or prior court order, papers filed with the court under seal shall be accompanied by a  
 11 contemporaneous motion for leave to file those documents under seal, and shall be filed consistent with  
 12 the court's electronic filing procedures in accordance with Local Rule 10-5(b). Notwithstanding the  
 13 foregoing, and/or any agreement among the parties, the party seeking to file a paper under seal bears  
 14 the burden of overcoming the presumption in favor of public access to papers filed in court. *Kamakana*  
 15 v. *City and County of Honolulu*, 447 F.2d 1172 (9th Cir. 2006).

16     7. A party may designate as "Confidential Information" documents or discovery materials  
 17 produced by a non-party by providing written notice to all parties of the relevant document numbers or  
 18 other identification within thirty (30) days after receiving such documents or discovery materials. Any  
 19 party or non-party may voluntarily disclose to others without restriction any information designated by  
 20 that party or non-party as confidential, although a document may lose its confidential status if it is  
 21 made public.

22     8. If a party contends that any material designated as Confidential Information is not  
 23 entitled to confidential treatment, such party may at any time give written notice to the party or non-  
 24 party who designated the material. The party or non-party who designated the material shall have  
 25 twenty-five (25) days from the receipt of such written notice to apply to the Court for an order  
 26 designating the material as confidential. The party or non-party seeking the order has the burden of  
 27 establishing that the document is entitled to protection.

28     9. Notwithstanding any challenge to the designation of material as Confidential  
 Information, all documents shall be treated as such and shall be subject to the provisions hereof unless  
 and until one of the following occurs:

- 1 a. the party or non-party claims that the material is Confidential Information  
2 withdraws such designation in writing; or  
3 b. the party or non-party who claims that the material is Confidential Information  
4 fails to apply to the Court for an order designating the material confidential  
5 within the time period specified above after receipt of a written challenge to such  
6 designation; or  
7 c. the Court rules the material is not confidential.

8 10. All provisions of this Order restricting the communication or use of Confidential  
9 Information shall continue to be binding after the conclusion of this action, unless otherwise agreed or  
10 ordered. Upon conclusion of the litigation, a party in the possession of Confidential Information, other  
11 than that which is contained in pleadings, correspondence, and deposition transcripts, shall either (a)  
12 return such documents no later than thirty (30) days after conclusion of this action to counsel for the  
13 party or non-party who provided such information, or (b) destroy such documents within the time  
14 period upon consent of the party who provided the information and certify in writing within thirty (30)  
15 days that the documents have been destroyed.

16 11. Notwithstanding the provisions of paragraph 10, above, it is expressly understood and  
17 agreed that counsel for each party shall be entitled to retain pleadings, motions and memoranda in  
18 support thereof, declarations or affidavits, deposition transcripts and videotapes, or documents  
19 reflecting attorney work product or consultant or expert work product, even if such material contains or  
20 refers to Confidential Information ("Litigation File"), but only to the extent necessary to preserve a  
21 litigation file with respect to this action. Although counsel for each party may retain a Litigation File,  
22 counsel for each party may not disclose and/or disseminate any part, portion or aspect of the Litigation  
23 File that contains Confidential Information to any third-parties, unless otherwise required by a court  
24 order, subpoena, request for production of documents, deposition notice, or by other operation of law.  
25 Before counsel for a party discloses any Confidential Information contained within its/their Litigation  
26 File pursuant to a court order, subpoena, request for production of documents, deposition notice, or by  
27 other operation of law, the counsel shall provide the other parties in this action with reasonable notice  
28 and reasonable opportunity to object to or limit such disclosure. Nothing in this section shall be  
construed as authorizing the Parties to disobey a lawful subpoena issued in another action or an order  
of a Court of competent jurisdiction.

1       12. The parties each reserve (a) the right to seek or oppose additional or different protection  
2 for particular information, documents, materials, items or things; and (b) the right to object to the  
3 production, disclosure and/or use of any information, documents, materials, items and/or things that a  
4 party designates as containing Confidential Information on any other ground(s) it may deem  
5 appropriate, including, without limitation, on the ground of attorney-client privilege, work product,  
6 and/or any other privilege or protection provided under applicable law.

7       13. The terms of this Order do not preclude, limit, restrict, or otherwise apply to the use of  
8 documents at trial.

9       14. Nothing herein shall be deemed to waive any applicable privilege or work product  
10 protection, or to affect the ability of a party to seek relief for an inadvertent disclosure of material  
11 protected by privilege or work product protection.

12       15. Any witness or other person, firm or entity from which discovery is sought may be  
13 informed of and may obtain the protection of this Order by written advice to the parties' respective  
14 counsel or by oral advice at the time of any deposition or similar proceeding.

15       16. This protective order may be signed in counterparts, and a fax or "PDF" signature shall  
16 have the same force and effect as an original ink signature.

17       17. Notwithstanding any provisions contained herein, nothing in this protective order shall  
18 be construed as authorizing any party to disobey a valid request for production of documents,  
19 deposition notice, lawful subpoena issued in another action or an order of a Court of competent  
20 jurisdiction. Accordingly, before a party discloses any Confidential Information pursuant to a court  
21 order, subpoena, request for production of documents, deposition notice, or by other operation of law,  
22 such party shall provide the party, or non-party, that designated such material as Confidential  
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1 Information with reasonable notice and reasonable opportunity to object to or limit such disclosure.  
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DATED this 4<sup>th</sup> day of February, 2014.

3 MORRIS POLICH & PURDY LLP

REISMAN SOROKAC

4 By:

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9 Attorneys for Defendants George Klander and  
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5 By:

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Henderson, Nevada 89123  
Attorneys for Plaintiff Bret Axelrod

10

11 **ORDER**

12 Good cause appearing therefore, IT IS SO ORDERED.

13

14   
15 U.S. DISTRICT COURT MAGISTRATE JUDGE

16

17 DATED: 2-5-2014

18 Respectfully Submitted by:

19 MORRIS POLICH & PURDY LLP

20 By:

21 NICHOLAS M. WIECZOREK  
22 Nevada Bar No. 6170  
23 500 South Rancho Drive, Suite 17  
24 Las Vegas, Nevada 89106  
25 Attorneys for Defendants George Klander and  
Money Management Advisory, Inc.

**APPENDIX A**  
**CERTIFICATION**

I hereby certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Stipulated Protective Order dated \_\_\_\_\_, 2014 in *Axelrod v. George L. Klander; Money Management Advisory, Inc.*, United States District Court Case No. 2:13-cv-1289-JAD-VCF. I have been given a copy of the Order and have read it. I agree to be bound by the Order. I will not reveal the Confidential Information to anyone, except as allowed by the Order. I will maintain all such Confidential Information – including copies, notes, or other transcriptions made therefrom – in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information – including copies, notes or other transcriptions made therefrom – to the counsel who provided me with the Confidential Information. I hereby consent to the jurisdiction of the United States District Court for the purpose of enforcing the Stipulated Confidentiality Agreement and Protective Order.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Print Name